

milk of specified member producers will not be diverted by the cooperative and is not to be included in computing the cooperative association's diversion percentage for the month, milk of such producers shall be deducted from the cooperative's total receipts of member milk for the purposes specified in paragraph (c)(3) of this section and added to the total milk receipts included in computing the diversions of the pool plant handler who receives their milk for the purposes specified in paragraph (c)(2) of this section; and

(5) When milk is diverted in excess of the limits specified in paragraphs (d)(2) and (3) of this section, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

EFFECTIVE DATE NOTES: 1. At 60 FR 7435, Feb. 8, 1995, in §1050.13, paragraph (d)(2), the words “: Provided, That the total quantity of producer milk diverted does not exceed 35 percent of the physical receipts of producer milk at the handler's pool plant during the month, exclusive of milk of producers who are members of a cooperative association that is diverting milk and the milk of other producers that is diverted pursuant to paragraph (d)(3) of this section” were suspended for an indefinite period beginning Jan. 1, 1995.

2. At 60 FR 18344, Apr. 11, 1995, in §1050.13, paragraph (d)(2), the words “not” and “it” where they first appear were suspended for an indefinite period effective Apr. 11, 1995.

**§ 1050.14 Other source milk.**

*Other source milk* means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in §1050.40(b)(1) from any source other than producers, handlers described in §1050.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in §1050.40(b)(1);

(c) Products (other than fluid milk products, products specified in §1050.40(b)(1), and products produced at

the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in §1050.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1050.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

[58 FR 27843, May 11, 1993]

**§ 1050.16 Fluid cream product.**

*Fluid cream product* means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

[58 FR 27843, May 11, 1993]